

**APR 10 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MANUEL JESUS QUIJADA-AVILA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-76510

Agency No. A24-739-296

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Manuel Jesus Quijada-Avila, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' ("BIA") decision denying his motion to reopen removal proceedings due to ineffective assistance of counsel.

We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for abuse of

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

discretion, *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1187 (9th Cir. 2001) (en banc), we deny the petition for review.

The BIA did not abuse its discretion in denying Quijada-Avila's motion to reopen on the ground that he failed to comply with the requirements of *Matter of Lozada*, 19 I. & N. Dec. 637 (BIA 1988). Quijada-Avila did not provide former counsel with notice and an opportunity to respond. *See Reyes v. Ashcroft*, 358 F.3d 592, 599 (9th Cir. 2004) ("Because Reyes cannot prove he gave [counsel] notice of the ineffective assistance allegations or an adequate opportunity to respond, we conclude that Reyes has not substantially satisfied *Lozada*."). Former counsel's alleged failure to notify Quijada-Avila of the BIA's January 26, 2004 decision is not evident from the record before us. Accordingly, we deny the petition for review. *See id.* at 597.

**PETITION FOR REVIEW DENIED.**